

**State of Minnesota**  
Department of Public Safety

Bureau of Criminal Apprehension  
MNJIS Section



**Civil Commitment Data Pass  
Feasibility Study**

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## **Feasibility/Business Case**

The purpose of this document is to provide a vehicle for detailing the feasibility of creating a data pass of civil commitment information from the MN Court Information System (MNCIS) to law enforcement through BCA's Law Enforcement Message Switch (LEMS).

## **Acronyms & Definitions**

Bureau of Criminal Apprehension (BCA) – A Minnesota agency that provides investigative and specialized law enforcement services to prevent and solve crimes in partnership with law enforcement, public safety, and criminal justice agencies. Services include criminal justice training and development, forensic laboratory analysis, multiple criminal justice information applications, and investigations.

Chemically Dependent (CD) – A commitment type as defined in MN Statute, § 253B.02, subd. 2.

Criminal History System (CHS) – A web-based service for the collection, storage, maintenance, and dissemination of Minnesota criminal history data.

Crisis Intervention Training (CIT) – Specialized law enforcement training on how to handle concerns related to those with mental illness.

Developmentally Disabled (DD) – A commitment type as defined in MN Statute § 253B.02, subd. 14.

Gun Permit Background Check (GPBC) – A web-based application that allows Minnesota law enforcement personnel to run background checks on applicants for, and holders of, Permits to Carry and Permits to Purchase/Transfer.

Health Insurance Portability and Accountability Act (HIPAA) – A public law established in 1996 to publicize standards for the electronic exchange, privacy, and security of health information.

Hennepin County Sheriff's Office (HCSO)

Law Enforcement Message Switch (LEMS) – A product that allows various criminal justice and non-criminal justice agencies to access, retrieve, and share information in a standardized format.

Mentally Ill and Dangerous (MI&D) – A commitment type as defined in MN Statute, § 253B.02, subd. 17.

Mentally Ill (MI) – A commitment type as defined in MN Statute § 253B.02, subd. 13.

Message Key – A key (code) used within LEMS to denote what type of message is being communicated such as an Entry, Update, Delete, Query, etc.

Minnesota Court Information System (MNCIS) – The system that stores Minnesota court data (both civil and criminal).

Minnesota Government Access (MGA) – A means through which government agencies can access MNCIS data.

Minnesota Sex Offender Program (MSOP) – A program that serves people who are court-ordered to receive sex offender treatment after being deemed a Sexual Psychopathic Personality or a Sexually Dangerous Person by a judge.

National Alliance on Mental Illness (NAMI) – A national grassroots mental health organization dedicated to building better lives for those affected by mental illness through raising awareness and providing support and education.

National Crime Information Center (NCIC) – An electronic clearinghouse of crime data that can be accessed by virtually every criminal justice agency nationwide. It helps to apprehend fugitives, locate missing persons, recover stolen property, and identify terrorists.

National Instant Criminal Background Check System (NICS) – A system administered by the FBI which helps Federal Firearms Licensees to instantly determine whether a prospective buyer is eligible to buy firearms.

Odyssey – A MNCIS application that allows authorized users to access case records.

Order for Protection (OFP) – A civil court order forbidding the Respondent from harming the Petitioner or any minor child(ren) in the home, or from causing fear of immediate physical harm.

Predatory Offender Registration (POR) System – The BCA system through which Predatory Offenders in Minnesota register their information as required by Minnesota Statute 243.166.

Query Person Gun Check (QPGC) – A federated search of databases accessed via the BCA that are used by local law enforcement agencies to process firearms permit applications.

Records Management System (RMS) – Local agency record keeping system.

Sexual Psychopathic Personality (SPP) – A commitment type as defined in MN Statute, § 253B.02, subd. 17(b).

Sexually Dangerous Person (SDP) – A commitment type as defined in MN Statute, § 253B.02, subd. 17(b).

## **Background**

The Criminal Juvenile Justice Information Advisory Group made the recommendation to conduct a study to determine the feasibility of creating a data pass of publicly accessible civil commitment data from MNCIS to law enforcement through the BCA's Law Enforcement Message Switch (LEMS). The BCA applied for a grant through the Court Technology Fund, which was granted. This study is a joint effort between the Courts and BCA.

Following this recommendation, the Hennepin County Sheriff's Office (HCSO) completed a feasibility study on Mental Health Integration in January 2017. <sup>1</sup> The study noted Query Person Gun Check (QPGC) can search the Department of Human Services (DHS) civil commitment information but it may be helpful if this information were made available to law enforcement for other purposes. The study identified some gaps in the current process:

- Law enforcement and the jail are unaware of mental health commits, provisional discharge conditions, or revocation because MNCIS does not provide that information.
- Mental health case details are not included in bail evaluation reports.
- Not having a unique party record between criminal and mental health court adds to the complexity for data sharing between the two courts.
- When identified, mental health cases are added to jail booking without the MNCIS case number which makes integrations between the two systems difficult

An article by the International Association of Chiefs of Police, which references a Washington Post study from 2015, indicated that "victims who were mentally ill or experiencing an emotional crisis accounted for one-fourth of those killed." <sup>2</sup>

Despite limited data, best estimates show that 3-10% of all police calls involve people living with mental illness. <sup>3</sup>

According to an article in the Pioneer Press dated June 3, 2016, "about 30 percent of the people fatally shot by police in Minnesota in the past decade have been diagnosed as having a mental illness or had exhibited signs of mental illness." <sup>4</sup>

The purpose of the proposed data pass is to improve law enforcement access to public information regarding civil commitments in order to provide safer and more positive encounters between law enforcement and civilians. This data pass would eliminate the need to perform a separate check for civil commitment information, thus making the information available more quickly.

As part of this feasibility study, six focus groups were conducted with law enforcement throughout the state. Focus groups included a total of about 60 law enforcement professionals, including police chiefs, sheriffs, SWAT members, dispatch personnel, and mental health officers from some agencies. The high-level feedback from those focus group follows:

- Participants were overwhelmingly in favor of having civil commitment information at their fingertips.
- Many agencies were unaware of the existence of Minnesota Government Access (MGA), and patrol officers did not generally have MGA access although they may find the information most valuable.
- Participants felt that an indicator on a person record alerting them to the existence of a history of civil commitment actions would be good at minimum. The presence of the indicator would let law enforcement know to look elsewhere (such as Odyssey or MGA) for detailed civil commitment information.
- They would like the indicator to include the type of commitment.
- Many participants would like the indicator to note whether the commitment is active or inactive, especially in the case of an Apprehend and Detain order or a transport order (note: this is not currently stored in MNCIS).
- Ideally, law enforcement personnel would like the ability to click on the indicator to pull up the most recent document, or to link directly to Odyssey or MGA.
- Though there were some noted risks related to releasing this information to law enforcement, it was felt that the benefits would far outweigh the risks.

### **Current Access to Civil Commitment Information**

Agencies that currently access civil commitment information generally do so via Odyssey and/or MGA. They may also receive the information from the family member of the individual, or a person providing services to them.

Apprehend and Detain orders are currently entered as Missing Persons as this is the only way to get the information into the criminal justice system so law enforcement is aware of the order should they encounter the individual in question.

It was the general consensus that there is a gap in information sharing regarding civil commitment procedures due to the fact that they are not criminal proceedings.

### **Focus Group Feedback**

***Do you currently have a way of accessing civil commitment information? If so, what means do you use?***

At this time, law enforcement personnel access civil commitment data via Odyssey and MGA but these systems are not available in squad cars, limiting access to those who need it most. Dispatch staff may access systems if there are mental health concerns, but likely not in other cases. These systems may also be accessed by investigators or negotiators. The information is also occasionally

used when setting up transports. When an Apprehend and Detain order is received, the only way to get the person's information into the system is to enter them as a missing person.

***Would you find it useful to have civil commitment data available through LEMS?***

All participants felt that having civil commitment data more easily accessible would be very helpful. It was felt that more information is always better as it allows officers to make better decisions on the spot. It was noted that it would be useful to have access to civil commitment data without needing to access Odyssey or MGA as not everyone has access to those systems.

***How would you utilize this information?***

When asked how civil commitment information would be used, participants felt that it would help to make sure a person is treated appropriately. For example, it could help decide whether to take the person in for an evaluation or help them to find outpatient mental health services. The information would also be helpful in determining appropriate placements in custody. If a person is known to have a history of mental illness, they can be connected with mental health services in the facility right away and the person can be put in the appropriate section of the facility. Likewise, if a person is known to have a history of chemical dependency, detox protocol can be started.

***In what instances would you want this information available?***

Participants indicated the information would be helpful in all instances. Some noted that they would like civil commitment information available for traffic stops with an indicator on the driver's license record of a history of civil commitment, and the date of the most recent court action. SWAT teams would use the information but they don't currently access it on a regular basis. Negotiators would also use the information; currently, they often only have information provided by friends and/or family.

It was noted that people often walk away from group homes at night and limited information is available at that time as group home staff may not be entirely knowledgeable about the resident and many medical facilities are closed.

Ideally, the information would be listed in the same place as Orders for Protection (OFPs), or similarly to how gang data is currently available. The information would be helpful in ensuring the safety of all involved in the stop. It was also noted that it would be nice to be able to do more follow up by letting agencies know of incidents that occurred in another jurisdiction. Additionally, it would be beneficial in notifying law enforcement of open Apprehend and Detain orders that may otherwise be unknown if they were issued in another jurisdiction.

***Do you have any examples where this information would have been helpful in the response to a situation?***

One agency noted a firearm that was confiscated during a crisis call. When looking to return the firearm, the case manager was able to do enough research to find a commitment order, which resulted in the firearm not being returned.

There was an incident in Anoka in April 2018 where a man set a pole barn on fire then assaulted two firefighters who arrived on scene. If law enforcement had known about the man's history of mental illness, they may have approached him instead of staying back and waiting for the fire to run its course which is standard practice.

An agency receiving a call about a suicidal person with a firearm only knew about their history of mental health issues and civil commitment proceedings due to information received from the family. Without that information, the situation could have had a very different outcome.

In one case, two deputies were placed on leave due to injuries suffered during an encounter with a person with a history of mental health issues. Had law enforcement known about the history, they may have approached the situation differently, possibly avoiding injuries.

In another instance, a person with a history of civil commitment proceedings had applied and been approved for two name changes because he hid his civil history from the courts. The prior civil actions were not discovered until he applied for a permit to purchase. Had the courts been aware of the person's history, it is unlikely the name changes would have been approved.

One agency noted they have a resident committed to his home on a Jarvis Order, a finding that a person is legally incompetent to make decisions regarding their medications and treatment. The individual called to complain about his mental health providers. The agency began looking into the issue and after talking to providers, they discovered the man's commitment. At one point, the gentleman was remanded to the hospital and his family didn't know why he wasn't home.

There was an instance of a voicemail left at a nursing home facility with no voice, but gunshots in the background. When officers went to investigate, they discovered that after resigning, a disgruntled employee had previously sent a threatening text message to an administrator indicating she should call the police to "take him out" because he didn't want to do it himself. It would have been beneficial for the investigating officers to know of any civil commitment history of the former employee before investigating further. It could also help inform law enforcement as to whether the threats were likely credible.

Some agencies have been called to group homes or halfway houses on report of a committed person drinking despite being barred from alcohol consumption per commitment orders. However, without paperwork, such as a commitment order, law enforcement is unable to do anything.

There was a recent incident in the southeast metro where officers responded to a group home serving people with mental illness due to a resident there reported to be more paranoid than usual and refusing to take medications. The person was under civil commitment as Mentally Ill and Dangerous and an Apprehend and Detain order had been issued, as well as an Order to Transport. While on scene talking to the caseworker to determine if a 72-hour mental health hold was warranted, the committed person went to his car, retrieved a shotgun, and began firing at officers. It is unclear if officers were aware of the recent orders, but had responding officers known more details from the person's civil commitment history, they likely would have likely handled the situation differently.

***Would you like all available civil commitment data, or just certain notifications?***

Most participants indicated they would like a flag or some other simple indicator of a civil commitment history, along with the ability to look further if necessary. It would be helpful if the indicator noted the type of commitment as well as whether there is a history of weapons. Ideally there would be a link directly to the person's civil record. It was also noted that a specific indicator for an Apprehend and Detain order would be helpful, along with the date it was entered into the court system.

Since civil commitment information is not necessary in all situations (such as traffic stops), the majority of focus group participants would not want all information displayed immediately. However, some participants noted it would be helpful to have civil commitment information in with warrants so law enforcement would know about an Apprehend and Detain order when stopping a vehicle.

Focus group attendees also noted that they would like to know if person is currently committed, or out on a provisional discharge. Knowing if a person needs to be brought somewhere would be helpful, as well as the location and a contact person there. Problems are often encountered at hospitals and treatment facilities due to HIPAA laws; having the signed court order could help to alleviate these issues.

Participants would like to know if court orders are expired. Some orders are phrased as "if this, then that" which makes them more complicated to interpret. However, conditions are helpful as they may indicate a requirement of sobriety for example and the person should be brought in if they are intoxicated. It would be helpful if the information is as descriptive as Orders for Protection.

***If civil commitment data is made available, who would you envision using it? When and how would they use it?***

Some participants felt that civil commitment information would be used quite a bit for warrant checks. It would likely be used frequently by dispatch so the information could be relayed to



responding officers while they are on the way to a call. Dispatch could also use the information to determine that a person should be taken to a hospital or treatment facility rather than jail.

Patrol officers would also be likely to use the information quite frequently as it will assist them in making decisions about the proper response to calls for service.

Civil commitment data would be helpful upon jail admission in order to determine appropriate placement, as well as any needed treatment. If someone is acting erratically, knowing about a history of mental health issues could ensure the person receives behavioral health services promptly when otherwise they may be sent to detox.

Information would also be used by people in many other positions. It was noted that just about anyone coming into contact with the public would be likely to utilize the information and more people would use the feature as they got used to having the information available.

Crisis Intervention Teams would be likely to use the information to determine that a social worker should be called in, if available, or that de-escalation techniques should be used in the encounter. These teams, along with negotiations teams, would like as much information as possible as quickly as possible.

### ***Do you see any potential risks with obtaining this information?***

A concern mentioned by a number of users was the potential misuse of information which is a risk with all BCA systems. Other concerns mentioned include: a complainant reporting a crime who is found to have a history of civil commitment may not be taken seriously; officers may use knowledge of civil commitment proceedings for chemical dependency as justification to search a vehicle without sufficient probable cause; and anyone looking at the data will interpret it in their own way which may result in differing actions. Although the hope of sharing this information with officers is that they will approach situations with more caution, it is possible they would respond in a way that would be detrimental. There is also a chance of officers learning of mental health and chemical dependency issues of people they know, which is a concern due to the stigma surrounding these issues. All system users are trained on data practices and there is an audit process to track misuse of systems. Training will be needed on how to interpret civil commitment data, as well as appropriate uses for it.

It was noted that court information may have a different name than the person's legal name and since court records often lack information other than a date of birth, it can be difficult to determine a match, especially with common names. If a name and date of birth are common and the civil commitment order is for the wrong person, that person may be taken in when they shouldn't be. This would potentially happen somewhat frequently as court orders often lack demographic information and don't have biometric identification attached. Contrarily, someone may slip through the cracks because their record wouldn't come up from a name and date of birth search. As part of this project, the Courts may need to make corrections to data, or begin collecting some information that is not currently required.

If there is no recent history of crisis related to the civil commitment order, it may not be necessary to share that information. Thus, it may be good to drop the alert after a certain amount of time, but this will need to be determined at a later date.

Knowing about a history of mental health issues may change the officers' perspective and potentially result in a more violent situation because they are on edge knowing the person's history. Conversely, officers may treat a situation more carefully by knowing about the person's history of mental health.

### ***Additional Feedback***

There is a growing need for civil commitment information – it is becoming almost as important as driver's license information. The development of the data pass could help to increase communication between the criminal court and civil court, helping to ensure appropriate decisions are made both by law enforcement and by the courts.

Law enforcement personnel don't generally look for civil commitment data unless they have some indication that it might exist. It was felt that the ability to access all historical commitment proceedings for a person, if desired, would be helpful.

Some treatment facilities will not accept a person for commitment without a printed order so the ability to print on-demand would be useful. Some facilities can deny admission of a person, which is a frequent occurrence in people with multiple prior treatment attempts and/or commitment orders. It would be important to address this in training.

There is potential for multiple court records for a single person as the courts may have different names on record than the driver's license record or criminal record.

At least one participant mentioned that if this data pass is created, it might be helpful to have a round table of sorts to get more specific input from law enforcement personnel. It would need to be determined exactly what information should be disclosed. At minimum, focus group participants would like an indicator, as noted previously. However, ideally they would be able to click on the indicator and be taken straight to case information in MNCIS and have the ability to print signed orders. There was also discussion about how far back to go to display indicators. Some participants noted that a commitment proceeding from 20 years ago without an active Apprehend and Detain order would not be helpful, but commitments in the last 5-10 years would be. Other participants wanted all available commitment information. It may be worth looking at whether law enforcement would like to go further back for certain types of commitment or if they would like them all the same.

Local agencies indicated that they sometimes have difficulty enforcing state orders regarding civil commitments. This information could still be helpful in determining how to handle an encounter with the person but training would be needed about how to handle the court order. There will be

questions about appropriate use of the civil commitment information, which can also be addressed in training.

### **Additional Matters for Consideration**

Focus group participants noted that mental health advocacy groups, such as NAMI, may have objections to sharing this information. A document on the website for NAMI states “NAMI believes that law enforcement authorities must obtain search warrants or comparable determinations of probable cause by judges or magistrates before they can access individually identifiable medical information.”<sup>5</sup> However, another statement from NAMI’s website states “NAMI believes that state and local mental health authorities must work closely in conjunction with state and local correctional and law enforcement agencies to develop strategies and programs for compassionate intervention by law enforcement, jail diversion, treatment of individuals with serious mental illnesses who are incarcerated, and discharge planning and community reintegration services for individuals with serious mental illnesses released from correctional facilities.”<sup>6</sup> The local NAMI chapter, as well as multiple state agencies, should be contacted prior to implementation of the data pass in order to minimize possible backlash.

There may also be questions from the community about how the data can or should be used. Since civil commitment proceedings are public data, there are no legal concerns with releasing the information to law enforcement. However, when the public becomes aware of the sharing of the information, it may need to be addressed.

Civil commitment information would be helpful to the BCA’s Predatory Offender Registration (POR) Unit. Currently, the POR Unit receives a list of people committed to the Minnesota Sex Offender Program (MSOP) or the Minnesota Security Hospital. Staff then looks up the person in Odyssey and hand enters civil commitment information. Implementation of the civil commitment data pass could integrate civil commitment information with the POR System, saving valuable staff time.

### **Possible Solutions**

The simplest solution to pass civil commitment information from MNCIS to law enforcement is to retrieve the information from courts each time a person query is run. This means that no information will be stored at the BCA and all searches would touch the Courts database in real time.

At minimum, an indicator on a person search should be provided, including the type of commitment(s) in their history. If there are multiple types of commitment in a person’s history, they should be listed separately.

An additional LEMS message key would need to be created to search for civil commitment records on a particular person. Agencies can then work with their RMS vendors to federate this message key into other searches that they regularly perform, if they so choose.

It is possible to use the court notification process to pull court information to the BCA to be stored in an in-house system. However, a decision would need to be made on where to store the information. This would allow agencies to be notified of updates on people civilly committed in their jurisdiction. It should be noted that this would be the most costly and the most time consuming option due to the amount of infrastructure that would be required to stand this up.

## **Conclusion**

In speaking to law enforcement personnel across Minnesota, it was quite apparent that this data would be very useful in providing additional information to personnel in many different circumstances. These include a general traffic stop, a hostage situation, or a call because a person behaving erratically.

Before this data pass is implemented, there should be some additional outreach to law enforcement throughout the state to determine more specifically what information is needed. This should include how much historical civil commitment data is relevant (e.g. a commitment history 20 years ago may not be relevant today). Regardless of specifics of how the information will be sent to law enforcement, agencies will need to work with their RMS vendors to determine what is needed in order to implement the new message key. It would be up to individual agencies to decide whether, or how, to federate the message key with another search.

If documents can be retrieved directly from the system (as opposed to going to Odyssey or MGA), the architecture team at the BCA would need to prepare for the ingest and transformation of a new information format. The effort for this is unknown at this time as the BCA has not yet ingested data in this format.

It was noted that it would be helpful to have orders listed as active or inactive. This is something that MNCIS does not currently track and a change to the courts system would need to be made in order to pass this information along to law enforcement. Making this change would require business process analysis from both the Courts and the BCA, but it would be a minimal development effort.

A business decision will need to be made on how to handle searches that return multiple court records. It should be discussed if the indicator should simply note a potential match, or if there is another possible solution.

Training would need to be implemented to educate appropriate personnel on the interpretation of civil commitment data. This training should also cover appropriate and inappropriate uses of the

information. It may also be beneficial to provide some education about what civil commitment information is available in Odyssey versus MGA.

The analysis and implementation of the data pass should take approximately a year to complete. This will need to be a joint effort between the BCA and courts, and will also need to include additional focus groups with law enforcement to work out final details of the project as outlined above. The exact cost will vary greatly depending on the chosen solution.

<sup>1</sup> Mental Health Integration Feasibility Assessment Report. By Hennepin County Sheriff's Office. January 26, 2017.

<sup>2</sup> "Improving Police Response to Persons Affected by Mental Illness," <http://www.theiacp.org/Portals/0/documents/pdfs/ImprovingPoliceResponsetoPersonswithMentalIllnessSymposiumReport.pdf>, report from the March 2016 IACP Symposium

<sup>3</sup> American Journal of Psychiatry, "Collaboration to Reduce Tragedy and Improve Outcomes: Law Enforcement, Psychiatry, and People Living With Mental Illness." By Nils Rosenbaum, MD; Detective Matthew Tinney, and Mauricio Tohen, MD, DrPH, June 2017, <https://ajp.psychiatryonline.org/doi/pdf/10.1176/appi.ajp.2017.16080985>

<sup>4</sup> MN Pioneer Press "As mental health calls pile up, St Paul police seek better response." By Mara H Gottfried, June 3, 2016

<sup>5</sup> NAMI (National Alliance on Mental Illness) website, <https://www.nami.org/About-NAMI/Policy-Platform/9-Legal-Issues> (9.5.9)

<sup>6</sup> NAMI (National Alliance on Mental Illness) website, <https://www.nami.org/About-NAMI/Policy-Platform/10-Criminal-Justice-and-Forensic-Issues>